App. 333. In spite of the contrary intimation in the principal case, a written contract of sale can hardly be a representation that the vendor will not claim a lien in case of insolvency, thereby forming the basis for an estoppel; nor is such a contract a symbol of possession. In the absence of attornment by the bailee to the second purchaser, therefore, the principal case seems erroneous.

SUBROGATION — ASSIGNMENT OF MORTGAGE TO SUBSEQUENT LESSEE ON REDEMPTION. — The assignee of a first mortgage obtained a subsequent lien on the mortgaged land. The owner of a lease intervening between the mortgage and the lien made large improvements on the land. After the acquisition of the lien he brought a bill to compel the assignee of the mortgage to receive the debt and assign the mortgage. *Held*, that a decree will be granted. *Hopkins* v. *Ketterer*, 85 Atl. 421 (Pa.).

A lessee may redeem and be subrogated to the rights of a prior mortgagee, when the mortgagee's rights will not be jeopardized thereby. *Hamilton* v. *Dobbs*, 19 N. J. Eq. 227; *Wunderle* v. *Ellis*, 212 Pa. 618, 62 Atl. 106. *Cf. Snook* v. *Zentmyer*, 91 Md. 485, 46 Atl. 1008. The lessee's equity in protecting his lease and improvements is clear. In the principal case no rights of the defendant were infringed, for he could not utilize his prior mortgage for the benefit of his lien, even where tacking is allowed, since the lien was acquired with constructive notice of the recorded lease. *Toulmin* v. *Steere*, 3 Meriv. 210. Subsequently the mortgagee, to enforce his lien, may compel the lessee to foreclose; but the lessee can then sell subject to the lease, thus protecting his property right. The mortgagee's former rights as a lienholder against the reversion, effective only after the original mortgage claim and the lease are taken out of the whole estate, are still preserved. The lessee, however, has no legal right to an actual assignment of the mortgage. *Hamilton* v. *Dobbs*, *supra*. But *cf. Twombly* v. *Cassidy*, 82 N. Y. 155. The equitable subrogation is adequate to protect him, for if the mortgage on the title record is marked "Paid by lessee," purchasers would take with notice of his equitable rights. And if an assignment is compelled, the assignor might perhaps be made liable on implied warranties. *Cf. Waller* v. *Staples*, 107 Ia. 738, 77 N. W. 570; *Ross* v. *Terry*, 63 N. Y. 613. It would seem, therefore, that equity should not require an actual assignment.

SURETYSHIP — SURETY'S RIGHT OF SUBROGATION — RELATION OF DEPOSITORY'S SURETY TO STATE TREASURER'S SURETY. — A bank in which the state treasurer had deposited public money failed and the bank's surety was compelled to pay the loss. The surety claimed that the loan was illegal and that it should be subrogated to the rights of the state against the treasurer's surety. *Held*, that the surety for the bank is not entitled to relief. *United States Fidelity & Guaranty Co.* v. *Title Guaranty & Surety Co.*, 200 Fed. 443 (Dist. Ct., D. Md.).

By the weight of authority, officials in charge of public money are absolutely liable for its loss except when caused by the act of God or a public enemy, not because they are debtors but for reasons of policy. *Tillinghast* v. *Merrill*, 151 N. Y. 135, 45 N. E. 375; *Rose* v. *Douglass Township*, 52 Kan. 451, 34 Pac. 1046; *United States* v. *Thomas*, 15 Wall. (U. S.) 337. Some jurisdictions make exceptions by statutory construction. *State* v. *Gramm*, 7 Wyo. 329, 52 Pac. 533; *City of Livingston* v. *Woods*, 20 Mont. 91, 49 Pac. 437. Others flatly deny the necessity for such a stringent rule and impose only the limited liability of a trustee. *Wilson* v. *People*, 19 Colo. 199, 34 Pac. 944; *State* v. *Copeland*, 96 Tenn. 296, 34 S. W. 427. In the principal case, though the state might on any view have proceeded against the treasurer's surety, it does not follow that the depository's surety succeeded to that right. Since the bank actually received the money it was clearly the primary debtor, for the misconduct of the official